

NISHIDA, Takanobu
Serial No. 09/986,987

Atty Dkt: 900-407
Art Unit: 1763

REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicants basically:

1. Amend claims (e.g., claims 1, 4, 10, 13 and 19), replacing the phrase "substantially pure oxygen gas" with the exact specification wording "almost pure oxygen gas", thereby mooted the written description rejection under 35 USC §112, first paragraph (although Applicant respectfully traverses the rejection and contends that the specification does include written description of the "substantially pure" phraseology).
2. Amend independent claims 13 and 19 to include therein limitations of claims 7 and 20, respectively.
3. Cancel claims 7 and 20 without prejudice or disclaimer.
4. Respectfully traverse all prior art rejections.

B. PATENTABILITY OF THE CLAIMS

Claim 19 stands rejected under 35 USC 102(b) as being anticipated by U.S. Patent 6,440,864 to Kropewnicki et al. Claims 1-4, 7-11, 13, 14, 16-20, 22 and 23 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent 6,440,864 to Kropewnicki et al in view of U.S. Patent 5,453,157 to Jeng. All prior art rejections are respectfully traversed for at least the following reasons.

Independent claims 1, 13 and 19 require that the ratio W_s/W_b be set so that the change rate of the dielectric constant before and after ashing is 10 % or less. The claimed subject matter, including the claimed ratio, advantageously suppresses an increase in

NISHIDA, Takanobu
Serial No. 09/986,987

Atty Dkt: 900-407
Art Unit: 1763

dielectric constant of the low dielectric constant insulating film caused by ashing (see page 13, line 16 to page 14, line 4 of the specification).

Kropewnicki fails to disclose a ratio W_s/W_b set so that the change rate of the dielectric constant before *and* after ashing is 10 % or less. Thus, the claimed subject matter is not disclosed by Kropewnicki.

Page 7, lines 61-66 of Kropewnicki describe "low dielectric constant, such as a dielectric constant less than about 3.2, and more preferably, less than about 3.0". In view of this description, the Examiner alleges "the dielectric constant of a material with the preferred dielectric constant of 3.0 cannot change by $\geq 10\%$ because this would result in a dielectric constant that exceeds Kropewnicki's upper limit of 3.2" (see page 4, last paragraph of the Office Action).

Yet Kropewnicki only indicates a preferred dielectric constant of a dielectric material, and it does not indicate the change rate of the dielectric constant before and after ashing as the Examiner alleges. Kropewnicki has no motivation to achieve the claimed subject matter since he has no suggestion on the change in dielectric constant before and after ashing.

Jeng also fails to teach or suggest that the ratio W_s/W_b is set so that the change rate of the dielectric constant before and after ashing is 10 % or less.

Therefore, the claimed invention is not obvious in view of Jeng or Kropewnicki, either alone or in alleged combination.

C. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

NISHIDA, Takanobu
Serial No. 09/986,987

Atty Dkt: 900-407
Art Unit: 1763

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,
NIXON & VANDERHYE P.C.

By: *H. Warren Burnam, Jr.*
H. Warren Burnam, Jr.
Reg. No. 29,366

HWB:lsb
901 North Glebe Road, 8th Floor
Arlington, VA 22203
Telephone: (703) 816-4000
Facsimile: (703) 816-4100